

EXHIBIT 4

DECLARATION OF LYNN A. BAKER IN SUPPORT OF PRELIMINARY SETTLEMENT APPROVAL

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Plaintiffs' Co-Lead Counsel

Additional counsel listed on signature page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION

MDL No. 2843
Case No. 18-md-02843-VC-JSC

This document relates to:

ALL ACTIONS

**DECLARATION OF LYNN A. BAKER IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 23(e)(1)**

Judge: Hon. Vince Chhabria
Courtroom: 4, 17th Floor
Hearing Date: March 2, 2023
Hearing Time: 10:00 a.m.

I, Lynn A. Baker, declare as follows:

I. SUMMARY OF OPINIONS

1. Plaintiffs have retained me to provide an expert opinion on whether the proposed Plan of Allocation in this settlement complies with accepted practices and with co-lead counsel's responsibilities to the class and is fair, adequate, and reasonable. For the reasons set out below, I conclude that the Plan of Allocation does so comply and is fair, adequate, and reasonable.

II. CREDENTIALS AND QUALIFICATIONS

2. I hold the Frederick M. Baron Chair in Law at the University of Texas School of Law, where I have taught as a tenured professor since 1997, and where I also serve as Co-Director of the Center on Lawyers, Civil Justice, and the Media. I have also been a professor at the University of Arizona College of Law (1992-1997), and have been a visiting professor at Tel Aviv University, Buchman Faculty of Law (2022 and 2019), at Columbia University Law School (1997), and at Rutgers (Camden) University Law School (1997). I began my academic career teaching at the University of Virginia School of Law from 1986 to 1992. Prior to that, I served as a law clerk to Judge Amalya L. Kearse on the United States Court of Appeals for the Second Circuit in Manhattan (1985-86). I am a 1985 graduate of Yale Law School, where I served as Article & Book Review Editor of the YALE LAW JOURNAL. I am a member of the Bars of the States of Texas (active) and Arizona (inactive) and of the United States Supreme Court. I am an elected Member of the American Law Institute.

3. As a law professor, one of my principal academic interests has been ethical issues in group litigation and settlement, including issues surrounding the allocation of settlement proceeds. I regularly teach a survey course on Professional Responsibility, which includes substantial discussion of these issues. I also often teach a seminar (titled "Mega-settlements") which focuses on large-dollar, complex settlements, and which involves extended, in-depth discussion of allocation issues in both class action and mass tort settings. I have frequently appeared as an invited speaker on these issues at symposia, conferences, and continuing legal education programs. My scholarly publications on these issues include: *I Cut, You Choose: The*

Role of Plaintiffs' Counsel in Allocating Settlement Proceeds, 84 VA. L. REV. 1465 (1998) (with Charles Silver); *Aggregate Settlements and Attorney Liability: The Evolving Landscape*, 44 HOFSTRA L. REV. 291 (2016); *Mass Lawsuits and the Aggregate Settlement Rule*, 32 WAKE FOREST L. REV. 733 (1997) (with Charles Silver); and *The Aggregate Settlement Rule and Ideals of Client Service*, 41 S. TEX. L. REV. 227 (1999) (with Charles Silver). These publications have been cited by numerous commentators and courts, and in leading treatises including the ALI's PRINCIPLES OF AGGREGATE LITIGATION (2010).

4. I have served as an expert or consultant on ethical and/or allocation issues in dozens of large-dollar, large-group settlements, including the BP class action settlement in the U.S. District Court for the Eastern District of Louisiana, the \$4.85 billion nationwide Vioxx settlement in 2007, and the \$1.27 billion nationwide Fen-Phen class action settlement (Seventh Amendment) in 2006, numerous settlements involving various other pharmaceuticals and medical devices (including trans-vaginal mesh, IVC filters, Fosamax, NuvaRing, Risperdal, hip replacement products, Prozac, Yaz/Yasmin, hormone replacement therapy, Paxil, Avandia, Seroquel, Gadolineum, Rezulin, Zyprexa, Ortho Evra, Bextra, Celebrex, Infuse), and many settlements involving various toxins including asbestos, silica, MTBE, and Roundup. I have also served as an expert on ethical and/or allocation issues in multiple large-dollar sex abuse settlements involving the University of Michigan and Ohio State University, in the \$800 million October 1 Las Vegas shooting settlement, in various settlements involving the General Motors ignition switch defect, in various settlements arising from *In re WorldCom, Inc. Securities Litigation*, and in the 2017 settlement this Court approved in *Jabbari v. Wells Fargo & Co.*

5. I previously testified in the United States District Court for the Middle District of Pennsylvania as an expert regarding the fairness and reasonableness of the \$17.75 million settlement fund allocation plan in connection with the class settlement, involving more than 3,000 class members, with the Mericle Defendants, approved by that Court on December 14, 2012. See *Wallace v. Powell*, 288 F.R.D. 347, 371 (M.D. Pa. 2012). See also *Wallace v. Powell*, 301 F.R.D. 144, 163 (M.D. Pa. 2014) (related \$2.5 million class settlement with the Provider

Defendants, in which I provided an expert report regarding the fairness and reasonableness of the settlement fund allocation plan).

6. I was previously appointed by the U.S. District Court for the Southern District of New York to serve as a Mass Tort Settlement Ethics Advisor. See *In re: Fosamax Products Liability Litigation* (MDL No. 1789) (Order entered April 10, 2014). I was also previously appointed by the U.S. District Court for the Southern District of West Virginia to serve as a settlement allocation Special Master. See *In re: Ethicon Inc., Pelvic Repair System Products Liability Litigation* (MDL No. 2327) (Pretrial Order #263, entered July 13, 2017); *In re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation* (MDL No. 2187) (Pretrial Order #202, entered Nov. 24, 2015).

7. My fee is \$1200 per hour spent preparing this Declaration and does not depend on the opinion I render here.

8. My full resume is attached as Exhibit 1 to this Declaration.

III. DOCUMENTS REVIEWED

9. When preparing this Declaration, I reviewed the items listed below which were generated in connection with the case in the caption of this Declaration. I also reviewed other items, including published scholarly works.

- A. The docket in the action;
- B. The Second Amended Consolidated Complaint, Dkt. 491 (Aug. 4, 2020);
- C. A near-final draft of the parties' Class Action Settlement Agreement and Release;
- D. A near-final draft of the declaration of co-lead counsel in support of the proposed Class Settlement;
- E. The final proposed Plan of Allocation; and
- F. Certain documents produced or generated in discovery in this case:
 - i. META-CA-MDL-0000268536;
 - ii. META-CA-MDL-0000221140;
 - iii. FB-CA-MDL-03334958;

- iv. Volume 4 of the Deposition of 30(b)(6) Corporate Representative Simon Cross, dated June 20, 2022;
- v. a document entitled “Facebook’s Responses to Plaintiffs’ July 14, 2022 Follow-Up Questions,” dated July 27, 2022;
- vi. the transcript of the Deposition of 30(b)(6) Corporate Representative Konstantinos Papamiltiadis, dated February 23, 2021; and
- vii. three documents that were submitted as exhibits 90, 91, and 93 respectively in support of Plaintiffs’ motion for sanctions: FB-CA-MDL-02014206, FB-CA-MDL-02221179, and FB-CA-MDL-02851185.

IV. RELEVANT BACKGROUND

- 10. I take the following facts from the above-listed documents.
- 11. The parties have reached a \$725 million settlement covering a class period from May 24, 2007 to the date of preliminary approval, the latter of which seems likely to be in 2023.
- 12. The settlement creates a non-reversionary Settlement Fund of \$725 million. The Net Settlement Fund, which the Settlement Agreement defines as the Settlement Fund minus certain fees, costs, and expenses, is to be allocated to Settlement Class Members.
- 13. The proposed Plan of Allocation uses an “allocation points” system to divide the Net Settlement Fund among Authorized Claimants (i.e., Settlement Class Members who have made valid claims). For each calendar month at any time during which an Authorized Claimant was an activated user of Facebook during the Class Period, one allocation point is assigned to the Authorized Claimant. All allocation points assigned to all Authorized Claimants are totaled. The Net Settlement Fund is then allocated to each Authorized Claimant pro rata based upon each Authorized Claimant’s share of the total allocation points.

V. ANALYSIS

- 14. My opinion is that the Plan of Allocation, as described above, is fair, reasonable, appropriate to the circumstances of this proposed class settlement, and consistent with accepted

allocation practices in group settlements. I will first describe the background principles that guide me to that opinion, and then apply those principles to this Plan of Allocation.

15. In the settlement context, one well accepted goal of a compensation plan is to replicate the claimants' expected net recovery at trial, discounted for the uncertainty of a favorable result at trial.¹ Under this standard "economic model" in a group settlement context, claimants with more serious, legally cognizable injuries are to receive larger recoveries than claimants with less serious injuries.

16. Precise "horizontal equity" among claimants, however, must be balanced against the administrative costs of fine-tuning individual awards. That is because courts presiding over class actions, and counsel representing classes, have a fiduciary duty to maximize the funds available for distribution to class members. Thus, where precise horizontal equity is impossible or impracticable, it is widely accepted that allocation plans may allocate funds according to an objective metric that is correlated, even if imperfectly, to degree of injury.

17. While here there appears to be ample evidence indicating the *existence* of classwide injury, a signal feature of this case is the lack of information that would enable a precise quantification of individual damages. Thus, Facebook cannot supply Plaintiffs or the Settlement Administrator with information about the number or identity of third parties that may have had access to a user's information through that user's friends, let alone information about precisely how much or how often information was accessed (or necessarily, how much or how often information was then misused). Facebook cannot even supply Plaintiffs or the Settlement Administrator with information about how many friends each user has had. Using these metrics to quantify likely damage, therefore, appears to be impossible.

18. On the other hand, there *is* evidence indicating that the amount of third parties' access to users' information has some correlation with the amount of time those users have been

¹ See, e.g., Charles Silver & Lynn Baker, *I Cut, You Choose: The Role of Plaintiffs' Counsel in Allocating Settlement Proceeds*, 84 VA. L. REV. 1465, 1518-21 (1998). The "economic model" of the settlement process is commonly thought to have originated in George L. Priest & Benjamin Klein, *The Selection of Disputes for Litigation*, 13 J. LEGAL STUD. 1 (1984).

on the platform. (This conclusion is also consistent with common sense.) For that reason, the Plan of Allocation assigns points based on the amount of time during the Class Period that an Authorized Claimant has been an activated Facebook user. The concept behind this mode of allocation seems to me fair, reasonable, and appropriate.

19. Relatedly, the use of a point system is also fair, reasonable, and appropriate in these circumstances. In recent years, point systems have been successfully used in numerous large-dollar group settlements, including the \$4.85 billion nationwide Vioxx settlement.² The use of a point system is a well-accepted practice in contexts, such as the settlement here, in which two key conditions exist: the funds to be allocated are limited, and the precise number and value of the claims to be made against the fund cannot be known in advance. Under these circumstances, a point system enables each claim to be valued equitably along the specified dimensions for which points are awarded, with determination of the precise dollar amount of each point reserved until the various uncertainties in the size of the fund and the values of the valid claims against the fund are finally resolved.

20. Like other well-designed point systems, the point system here is based on an objective, documented factor: the time during the Class Period that an Authorized Claimant has been an activated user on the platform. Given the limited information enabling a precise quantification of damages, the point system proposed here provides a fair and reasonable way of providing horizontal equity among the claims against the Net Settlement Fund. In addition, it is also consistent with the economic model of settlement valuation discussed above: claimants whose likely amount of damage is greater are awarded more points than those whose likely amount of damage is smaller.

21. Another attractive feature of the point system here is that it bears a reasonable relationship to the likely strength of class members' claims. At trial, given the constraints of the

² I served as a paid consultant on legal ethics to the Plaintiffs' Negotiating Committee in the nationwide Vioxx settlement. I have also served as a paid consultant in numerous confidential large-dollar settlements in recent years, including a wide range of confidential pharmaceutical and sex abuse settlements, in which point systems have been successfully used to allocate the settlement fund.

evidence here, Plaintiffs would have proven their case by relying on the probability that third parties accessed certain information, considering the number of third parties, the effect that friends have on that number, and the number of requests for user data that third parties made. Because the amount of time during the Class Period that a user has had an activated account on the platform is correlated with the amount of third parties' access to that user's data, it is also correlated with the probability that third parties accessed certain information, and therefore is also correlated with the strength of a user's claim at trial.

22. The Plan of Allocation contemplates that the Settlement Administrator may decide on a minimum payment to be made to Authorized Claimants. Minimum payments are widely used in class-action allocation plans and are designed to increase the likelihood that payments made by check are deposited.

23. The Plan of Allocation contains provisions dealing with unclaimed payments, including uncashed checks. In my view, these provisions strike a fair balance between minimizing the costs and burdens of settlement administration and ensuring that Authorized Claimants have a reasonable opportunity to receive their settlement payment.

24. Finally, the Plan of Allocation also contains provisions about residual funds, including payments that remain unclaimed after the Settlement Administrator's reasonable follow-up efforts. These provisions authorize a second distribution of funds to Authorized Claimants if it is practicable, thereby protecting the interest of the Settlement Class in receiving as much as possible of the Net Settlement Fund.

25. If a second distribution is not practicable, the Plan of Allocation contemplates that the Parties will confer and present to the Court a proposal for treatment of the remaining funds, a proposal that can be effected only if the Court approves. This provision, as well as the section of the Plan of Allocation allowing the Court to modify provisions related to unclaimed payments and residual funds, preserves, to the greatest extent possible, this Court's ability to oversee and ensure an equitable distribution of funds.

26. In sum, the Plan of Allocation here is, in my opinion, fair, reasonable, and adequate, consistent with accepted allocation practices in recent group settlements, and compliant with co-lead counsel's responsibilities to the class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and to the best of my knowledge.

Dated December 16, 2022.


By:  _____
Lynn A. Baker

EXHIBIT 1

**to the Declaration of
Lynn A. Baker**

December 16, 2022

LYNN A. BAKER

University of Texas School of Law
727 East Dean Keeton Street
Austin, Texas 78705
512.232.1325 (phone)
LBaker@law.utexas.edu

EMPLOYMENT

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, TX

- Frederick M. Baron Chair in Law (2002 - present)
- Co-Director, Center on Lawyers, Civil Justice, and the Media (2001 - present)
- Thomas Watt Gregory Professor (1997-2002)
- Visiting Professor (Fall 1996)
- Current teaching areas: Professional Responsibility; Mega-settlements (seminar); Colloquium on Current Issues in Complex Litigation (seminar); State and Local Government Law; Property
- Dean's commendation for "especially high student evaluations" in Property (Fall 1999; 120 First Year students)

VISITING PROFESSOR

- **Tel Aviv University, Buchmann Faculty of Law**, Tel Aviv, Israel (December 2022; Spring 2019)
- **Rutgers University Law School**, Camden, NJ (Spring 1997)
- **Columbia University Law School**, NY, NY (adjunct) (Spring 1997)

UNIVERSITY OF ARIZONA COLLEGE OF LAW, Tucson, AZ

- Professor (1994 - 1997)
- Streich Lang Research Fellow (Summer 1993)
- Associate Professor (1992 - 1994)
- Teacher of the Year (1995-96) -- chosen by law school student body

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, VA

Assistant Professor (1986 - 1992)

HON. AMALYA L. KEARSE, U.S. Court of Appeals for the Second Circuit, NY, NY

Law Clerk (1985-86 Term)

SUMMER ASSOCIATE

- Paul, Weiss, Rifkind, Wharton & Garrison, NY, NY (1985)
- Miller, Cassidy, Larroca & Lewin, Washington, DC (1984)
- Lord, Day & Lord, NY, NY (1983)
- Hastings Center, Hastings-on-Hudson, NY (1983)

DAVIS, POLK & WARDWELL, NY, NY

Legal Assistant (1979-80)

EDUCATION

YALE LAW SCHOOL, New Haven, CT

J.D. 1985

Yale Law Journal, Article & Book Review Editor (1984-85), Editor (1983-84)

Yale Law & Policy Review, Editor (1982-83)

OXFORD UNIVERSITY (Somerville College), Oxford, England

Honours B.A. (Philosophy, Psychology & Physiology) 1982

Marshall Scholar (1980-82)

YALE UNIVERSITY, New Haven, CT

B.A. 1978

Magna cum Laude, Distinction in Psychology

John Courtney Murray Traveling Fellowship (1978-79)

Independent research in East and West Germany. Awarded by Yale University.

LEGAL PUBLICATIONS

BOOKS/VOLUMES

LOCAL GOVERNMENT LAW: CASES AND MATERIALS

- 6th ed. (2022) and 5th ed. (2014) – Foundation Press: NY, NY (with Clayton P. Gillette & David Schleicher)
- 4th ed. (2010) and 3rd ed. (2004) – Foundation Press: NY, NY (with Clayton P. Gillette)
- 2nd ed. (1999) – Little, Brown/Aspen: NY, NY (with Clayton P. Gillette)

TEACHER'S MANUAL, LOCAL GOVERNMENT LAW: CASES AND MATERIALS

- 6th ed. (2022) and 5th ed. (2015) – Foundation Press: NY, NY (with Clayton P. Gillette & David Schleicher)
- 4th ed. (2010) and 3rd ed. (2006) – Foundation Press: NY, NY (with Clayton P. Gillette)
- 2nd ed. (1999) – Little, Brown/Aspen: NY, NY (with Clayton P. Gillette)

INNOVATIONS IN COMPLEX LITIGATION AND SETTLEMENT, Special Editor,

Symposium volume 84 **LAW & CONTEMP. PROBS.**, No. 2, 2021 (252 total pages), in Honor of Francis McGovern (with co-Special Editors Elizabeth Cabraser & Robert Klonoff)

ARTICLES, ESSAYS, AND BOOK CHAPTERS

The Mysterious Market for Post-Settlement Litigant Finance, 96 **N.Y.U. L. REV. ONLINE** 181 (2021) (with Ronen Avraham & Anthony J. Sebok)

The MDL Revolution and Consumer Legal Funding, 40 **REV. LITIG.** 143 (2021) (with Ronen Avraham & Anthony J. Sebok)

In Defense of Private Claims Resolution Facilities, 84 **LAW & CONTEMP. PROBS.**, No. 2, 2021, at 45 (with Charles Silver) (Symposium on "Innovations in Complex Litigation and Settlement," in Honor of Francis McGovern)

Rethinking the Senate, 44 **HARV. J.L. & PUB. POL'Y** 39 (2021) (2020 Federalist Society Annual Student Symposium: "The Structural Constitution in the 21st Century")

Mass Tort Remedies and the Puzzle of the Disappearing Defendant, 98 **TEX. L. REV.** 1165 (2020) (Symposium on "Remedies in Complex Litigation")

Layers of Lawyers: Parsing the Complexities of Claimant Representation in Mass Tort MDLs, 24 **LEWIS & CLARK L. REV.** 469 (2020) (with Stephen J. Herman) (Pound Civil Justice Institute Symposium on "Class Actions, Mass Torts, and MDLs: The Next 50 Years")
 ■ Excerpted in **CIVIL PROCEDURE: CASES AND PROBLEMS** (B.A. Babcock, et al., eds. 7th ed., forthcoming 2020)

Mass Torts and the Pursuit of Ethical Finality, 85 **FORDHAM L. REV.** 1943 (2017) (Stein Center for Law and Ethics Symposium on "Civil Litigation Ethics at a Time of Vanishing Trials")

Aggregate Settlements and Attorney Liability: The Evolving Landscape, 44 **HOFSTRA L. REV.** 291 (2016) (Symposium on "Lawyers as Targets: Suing, Prosecuting and Defending Lawyers")

Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions, 115 **COLUMBIA L. REV.** 1371 (2015) (with Michael A. Perino & Charles Silver)
 ■ Selected among "Top 10 Corporate and Securities Articles of 2016" by *Corporate Practice Commentator*; 23rd annual poll of teachers in corporate and securities law regarding list of more than 490 articles published and indexed in legal journals during 2016

Alienability of Mass Tort Claims, 63 **DEPAUL L. REV.** 265 (2014) (Clifford Symposium, "Brave New World: The Changing Face of Litigation and Law Firm Finance")

Models of Closure in Mass Torts: A Comment on "The Mass Tort Bankruptcy: A Pre-History," 5 **J. TORT LAW** 85 (2014; backdated to 2012) ("The Public Life of the Private Law: The Logic and Experience of Mass Litigation -- A Conference in Honor of Richard A. Nagareda")

The Spending Power After NFIB v. Sebelius, 37 **HARV. J.L. & PUB. POL'Y** 71 (2013) (2013 Federalist Society Annual Student Symposium: "The Federal Leviathan: Is There Any Area of Modern Life to Which Federal Government Power Does Not Extend?")
 ■ excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 103 (L.A. Baker, et al., eds. 6th ed., 2022)
 ■ excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 90 (L.A. Baker, et al., eds. 5th ed., 2015)

Setting Attorneys' Fees in Securities Class Actions: An Empirical Assessment, 66 **VAND. L. REV.** 1677 (2013) (with Michael A. Perino & Charles Silver) ("The Economics of Aggregate Litigation," 19th Annual Symposium of the Institute for Law and Economic Policy)

- Selected by National Association of Legal Fee Analysis to list of seven articles deemed "nation's most influential scholarship on attorney fees" (July 7, 2014)

The Politics of Legal Ethics: Case Study of a Rule Change, 53 **ARIZ. L. REV.** 425 (2011) ("The Ted Schneyer Ethics Symposium: Lawyer Regulation for the 21st Century")

Fiduciaries and Fees: Preliminary Thoughts, 79 **FORDHAM L. REV.** 1833 (2011) (with Charles Silver) (symposium on "Civil Procedure and the Legal Profession")

Constitutional Ambiguities and Originalism: Lessons from the Spending Power, 103 **NW. U.L. REV.** 495 (2009) (symposium on "Original Ideas about Originalism")

Constitutional Home Rule and Judicial Scrutiny, 86 **DENV. U. L. REV.** 1337 (2009) (with Daniel B. Rodriguez) (symposium on "Home Rule")

- excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 322 (L.A. Baker, et al., eds. 6th ed., 2022)
- excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 320 (L.A. Baker, et al., eds. 5th ed., 2015)
- excerpted in **STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM** (D. Mandelker, et al., eds. 2012)
- excerpted in **LOCAL GOVERNMENT LAW: CASES AND MATERIALS** 317 (L.A. Baker & C.P. Gillette, eds. 4th ed., 2010)

Twenty-Year Legacy of South Dakota v. Dole: Dole Dialogue, 52 **S.D. L. REV.** 468 (2007) (with Sanford Levinson) (symposium on "*South Dakota v. Dole*")

Federalism and Redistribution: Lessons from the U.S. Experience, in **PATTERNS OF REGIONALISM AND FEDERALISM: LESSONS FOR THE U.K.** 173 (J. Fedtke & B. Markesinis, eds.) (2006, Hart Publishing; Clifford Chance Lecture Series) (proceedings of conference on "Patterns of Federalism and Regionalism: Lessons for the U.K.")

Federalism and the Spending Power from Dole to Birmingham Board of Education, in **THE REHNQUIST LEGACY** 205 (C. Bradley, Ed.; 2006) (Cambridge University Press)

The Future of Federalism?: Pierce County v. Guillen as a Case Study, 50 **N.Y.L.S. L. REV.** 699 (2005-2006) (proceedings of conference on "From Warren to Rehnquist and Beyond: Federalism as Theory, Doctrine, Practice, and Instrument")

Lochner's Legacy for Modern Federalism: Pierce County v. Guillen as a Case Study, 85 **B.U. L. REV.** 727 (2005) (proceedings of conference on "*Lochner's* Centennial")

Preferences, Priorities, and Plebiscites, 13 **J. CONTEMP. LEG. ISSUES** 317 (2004) (symposium on "Direct Democracy")

- Getting off the Dole: Why the Court Should Abandon Its Spending Doctrine, and How a Too-Clever Congress Could Provoke It to Do So*, 78 **IND. L.J.** 459 (2003) (with Mitchell N. Berman) (symposium on “Congressional Power in the Shadow of the Rehnquist Court: Strategies for the Future”)
- Facts about Fees: Lessons for Legal Ethics*, 80 **TEX. L. REV.** 1985 (2002) (symposium on "What We Know and Do Not Know about the Impact of Legal Services on the American Economy and Polity")
- Introduction: Civil Justice Fact and Fiction*, 80 **TEX. L. REV.** 1537 (2002) (with Charles Silver) (symposium on "What We Know and Do Not Know about the Impact of Legal Services on the American Economy and Polity")
- Should Liberals Fear Federalism?*, 70 **U. CIN. L. REV.** 433 (2002) (William Howard Taft Lecture Symposium on “The Practical Impact of the Supreme Court’s Federalism Revolution”)
- Federalism and the Double Standard of Judicial Review*, 51 **DUKE L.J.** 75 (2001) (with Ernest A. Young) (symposium on "The Constitution in Exile")
- Putting the Safeguards Back into the Political Safeguards of Federalism*, 46 **VILL. L. REV.** 951 (2001) (symposium on "New Voices on the New Federalism")
- The Spending Power and the Federalist Revival*, 4 **CHAPMAN L. REV.** 195 (2001) (symposium on "The Spending Clause: Enumerated Power or Blank Check?")
- Conditional Federal Spending and States’ Rights*, 574 **ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCES** 104 (2001) (symposium on “The Supreme Court’s Federalism: Real or Imagined?”)
- The Aggregate Settlement Rule and Ideals of Client Service*, 41 **S. TEX. L. REV.** 227 (1999) (with Charles Silver) (symposium on "Emerging Professional Responsibility Issues in Litigation")
- Getting from Here to There: The Rebirth of Constitutional Constraints on the Special Interest State*, 40 **WM. & MARY L. REV.** 515 (1999) (with Samuel H. Dinkin) (symposium on “Supermajority Rules as a Constitutional Solution”)
- The Revival of States’ Rights: A Progress Report and a Proposal*, 22 **HARV. J.L. & PUB. POL’Y** 95 (1998) (symposium on “The Revival of the Structural Constitution”)
- I Cut, You Choose: The Role of Plaintiffs’ Counsel in Allocating Settlement Proceeds*, 84 **VA. L. REV.** 1465 (1998) (with Charles Silver) (symposium on “The Law and Economics of Lawyering”)
- Federalism: The Argument from Article V*, 13 **GA. ST. L. REV.** 923 (1997) (Henry J. Miller Distinguished Lecture Series/Symposium on “New Frontiers of Federalism”)

- Mass Lawsuits and the Aggregate Settlement Rule*, 32 **WAKE FOREST L. REV.** 733 (1997) (with Charles Silver) (symposium on “Legal Professionalism”)
- excerpted in **FOUNDATIONS OF THE LAW AND ETHICS OF LAWYERING** 213 (G.M. Cohen & S.P. Koniak, eds. 2004)
- The Senate: An Institution Whose Time Has Gone?*, 13 **J.L. & POL.** 21 (1997) (with Samuel H. Dinkin)
- excerpted in **CONSTITUTIONAL LAW** (G. Stone, et al., eds. 2009)
- The Missing Pages of the Majority Opinion in Romer v. Evans*, 68 **U. COLO. L. REV.** 387 (1997) (symposium on “Gay Rights and the Courts: The Amendment Two Controversy”)
- Interdisciplinary Due Diligence: The Case for Common Sense in the Search for the Swing Justice*, 70 **S. CAL. L. REV.** 187 (1996)
- “They the People”: A Comment on U.S. Term Limits v. Thornton*, 38 **ARIZ. L. REV.** 859 (1996) (symposium on “Major Issues in Federalism”)
- Conditional Federal Spending After Lopez*, 95 **COLUM. L. REV.** 1911 (1995)
- Bargaining for Public Assistance*, 72 **DEN. U. L. REV.** 949 (1995) (symposium on “The Unconstitutional Conditions Doctrine”)
- Constitutional Change and Direct Democracy*, 66 **U. COLO. L. REV.** 143 (1995) (symposium on “Governing By Initiative”)
- excerpted in **STATE CONSTITUTIONAL LAW: CASES AND MATERIALS** (R. Williams, ed. 2012)
- When Every Relationship Is Above Average: Perceptions and Expectations of Divorce at the Time of Marriage*, 17 **LAW & HUM. BEH.** 439 (1993) (with R.E. Emery)
- excerpted in **FAMILY LAW IN ACTION: A READER** 73 (M. F. Brinig, et al. eds. 1999)
- Direct Democracy and Discrimination: A Public Choice Perspective*, 67 **CHI.-KENT L. REV.** 707 (1992) (with replies by Julian Eule and William Riker) (symposium on “The Law and Economics of Local Government”)
- “Just Do It”: Pragmatism and Progressive Social Change*, 78 **VA. L. REV.** 697 (1992) (with reply by Richard Rorty)
- excerpted in **JURISPRUDENCE: CONTEMPORARY READINGS, NARRATIVES, AND PROBLEMS** 492 (N. Levit & R. Hayman eds. 1994)
 - earlier version published in **PRAGMATISM IN LAW AND SOCIETY** 99 (M. Brint & W. Weaver eds. 1991)
- The Myth of the American Welfare State*, 9 **YALE L. & POL’Y REV.** 110 (1991) (reviewing T. MARMOR, J. MASHAW & P. HARVEY, *AMERICA’S MISUNDERSTOOD WELFARE STATE: PERSISTENT MYTHS, ENDURING REALITIES* (1990))
- The Prices of Rights: Toward a Positive Theory of Unconstitutional Conditions*, 75 **CORNELL L. REV.** 1185 (1990)

Webster and *Incomplete Judicial Review*, 6 **J.L. & POL.** 549 (1990)
(symposium on “Judicial Review in a Democratic Society”)

Promulgating the Marriage Contract, 23 **U. MICH. J.L. REF.** 217 (1990)
■ excerpted in **D. WESTFALL, FAMILY LAW** 227 (1994)

“I Think I Do”: Another Perspective on Consent and the Law, 16 **LAW, MED. & HEALTH CARE** 256 (1988) (festschrift for Jay Katz, Elizabeth K. Dollard Professor of Law, Medicine, and Psychiatry, Yale University)

Unnecessary and Improper: The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 94 **YALE L.J.** 1117 (1985) (student note)

OTHER ACADEMIC

South Dakota v. Dole, entry in 4 **ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES** 431 (D. Tanenhaus, ed.) (2008, Macmillan)

South Dakota v. Dole, entry in 2 **FEDERALISM IN AMERICA: AN ENCYCLOPEDIA** 578 (J. Marbach, E. Katz & T. Smith, eds.) (2006, Greenwood Press)

The City in the 21st Century, 32 **URB. LAW.** 365 (2000) (Introduction to symposium on “The City in the 21st Century”)

OPINION PIECES

Commentary: Improve Market Integrity by Standardizing Attorneys’ Fees, **AUSTIN AMERICAN-STATESMAN**, Jan. 13, 2016 (with Charles Silver)

- reprinted as *Attorney Fees Key to Fighting Wall Street Fraud*, **HOUSTON CHRONICLE**, Jan. 16, 2016
- reprinted as *Attorney Fees Key to Fighting Wall Street Fraud*, **SAN ANTONIO EXPRESS-NEWS**, Jan. 16, 2016

Trademark Protection, Letter to the Editor, **N.Y. TIMES**, June 22, 1996, at A14

SELECTED PROFESSIONAL HONORS AND PRO BONO ACTIVITIES

Elected Member, American Law Institute (2017 – present)

Elected Member, Pound Institute Academic Fellow (2020 – present)

Scholars Council, James F. Humphries Complex Litigation Center, George Washington Law School (2020 – present)

Complex Litigation Ethics Consultant, NBTA National Board of Complex Litigation (2018 – present)

Board of Advisors (f/k/a Editorial Board), **CATO SUPREME COURT REVIEW** (2001 - present)

Pound Civil Justice Institute, 2020 Civil Justice Scholarship Award Committee (2019)

Pound Civil Justice Institute, 2019 Civil Justice Scholarship Award Committee (2018)

Academic Advisor, Louisiana Supreme Court Committee on Class Actions, Mass Torts, Complex Litigation, Multi District Litigation and New Rules of Prof. Conduct (2017-18)

Referee, **JOURNAL OF EMPIRICAL LEGAL STUDIES** (2016)

Board of Scholars, Initiative and Referendum Institute, Univ. of Southern California (2004-11)

Panel of academic contributors, **BLACK'S LAW DICTIONARY** (8th ed. 2004)

Pierce County v. Guillen, 537 U.S. 129 (2003), Amicus Brief in Support of Respondent (2002 WL 1964091) (with Mitchell N. Berman)

Resource Witness, Texas House Select Committee on Constitutional Revision, Hearing on Proposed Changes in Gubernatorial Power, April 1999.

Resource Witness, Texas Senate State Affairs Committee, Hearing on Proposed Constitution, March 1999

Burrow v. Arce, 997 S.W.2d 229 (Tex. 1999), Amicus Brief (1998 WL 35336105), Supplemental Amicus Brief (1999 WL 35047216), and Supplemental Letter Brief (1999 WL 35047216) in support of David Burrow (all with Charles Silver)

Task Force on Pima County (Arizona) Charter Government (1996-97), legal counsel

Judicial College of Arizona, Legal Institute for Non-Law Trained Judges, faculty member (Property Law) (1993-1996)

BAR ADMISSIONS

Texas, 2003

U.S. Supreme Court, 2002

Arizona, 1992 (inactive)

INVITED PRESENTATIONS

Invited Moderator, "Money and Ethics in MDL," Mass Tort MDL Certificate Program, Bolch Judicial Institute, Duke Law School, Durham, NC, Nov. 8, 2022 (virtual)

Invited Panelist, "Adapting Ethics to Complex Litigation," Complex Litigation Ethics Conference, UC Hastings Law School, October 22, 2022

Invited Commentator, "Are State Constitutional Rights for Sale? Protecting State Constitutional Rights from Unconstitutional Conditions," by K. Levine, J. Nash & R. Schapiro, Conference on State Constitutional Law, Emory Center on Federalism and Intersystemic Governance, virtual conference, July 28, 2022

- Invited Paper and Presentation, "In Defense of Private Claims Resolution Facilities" (with Charles Silver), panel on "Claims Resolution Facility Design & Innovation," McGovern Symposium on Civil Litigation, Bolch Judicial Institute, Duke Law School, Durham, NC, May 27, 2022
- Invited Moderator, "Leadership Appointment Process," Advanced MDL Certificate Program, Bolch Judicial Institute, Duke Law School, Durham, NC, May 26, 2022
- Invited Panelist, "The Attorney-Client Relationship in Multidistrict Litigation," Convening at Stanford Law School, hosted by the Stanford Center on the Legal Profession and the Berkeley Law Civil Justice Research Initiative, Stanford, CA, May 20, 2022
- Invited Panelist, "Chalkboard 3.0: Ethics Edition," University of Texas School of Law, virtual panel, January 10, 2022
- Invited Moderator/Panelist, "Ethics Associated with Complex Litigation," 21st Annual Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 5, 2021
- "The MDL Revolution and Consumer Legal Funding" (with Ronen Avraham & Anthony J. Sebok), invited paper and presentation, 31st Annual Meeting of the American Law and Economics Association, virtual symposium, October 23, 2021
- Invited Panelist, "Selection of Leadership in Light of Other Aggregate Litigation Considerations," symposium on "Selection of Leadership in MDLs," Berkeley Law Civil Justice Research Institute, virtual symposium, September 17, 2021
- "The Mysterious Market for Post-Settlement Litigant Finance" (with Ronen Avraham & Anthony J. Sebok), invited paper and presentation, The 3rd Annual Consumer Law Scholars Conference, Berkeley Law, Center for Consumer Law & Economic Justice, virtual Conference, March 4, 2021
- Invited Moderator/Panelist, "Class-Action Challenges," First Annual Class Action Annual Case Law and Practices Review Bench-Bar Conference, George Washington Law School, James F. Humphreys Complex Litigation Center, virtual presentation, November 13, 2020
- Invited Panelist, "Litigation Exit Strategies," Baylor Law School Complex Litigation LLM Program, virtual presentation, August 4, 2020
- Invited Panelist, "The Proper Role of the Senate," 2020 Federalist Society National Student Symposium: "The Structural Constitution in the 21st Century," virtual Symposium, hosted by the University of Michigan Law School, Ann Arbor, MI, March 14, 2020
- "Mass Tort Remedies and the Puzzle of the Disappearing Defendant," invited paper and presentation, Texas Law Review Symposium on "Remedies in Complex Litigation," Austin, TX, January 31, 2020
- "Ethics Associated with Complex Litigation," invited panelist and moderator, 19th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 8, 2019

“Layers of Lawyers: Parsing the Complexities of Claimant Representation in Mass Tort MDLs” (with Stephen J. Herman), invited paper and presentation, Symposium on “Class Actions, Mass Torts, and MDLs: The Next 50 Years,” Pound Civil Justice Institute and Lewis & Clark Law School, Portland, OR, November 1, 2019

Invited Commentator on “Mass Tort: Endgame,” Symposium on “Class Actions, Mass Torts, and MDLs: The Next 50 Years,” Pound Civil Justice Institute and Lewis & Clark Law School, Portland, OR, November 1, 2019

Invited Commentator on “Judicial Adjuncts in Multidistrict Litigation,” Fifth Annual Civil Procedure Workshop, University of Texas School of Law, Austin, TX, October 25, 2019

“Anatomy of Mass Tort Litigant Finance in the U.S.” (with Ronen Avraham)

- Workshop on Law and Economics, Tel Aviv University, Buchmann Faculty of Law, Tel Aviv, Israel, March 11, 2019
- Law and Society Association of Australia and New Zealand, Annual Meeting, University of Wollongong, Wollongong, Australia, December 13, 2018
- 8th International Legal Ethics Conference, University of Melbourne, Melbourne, Australia, December 8, 2018
- Drawing Board presentation, University of Texas School of Law, Austin, TX, November 26, 2018

“Ethics Associated with Complex Litigation,” invited panelist and moderator, 18th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 9, 2018

“Ethics Associated with Complex Litigation,” invited speaker and moderator, HarrisMartin's "MDL Conference: 'Bet-the-Company' Mass Tort Litigation," Chicago, IL, May 30, 2018

“Improving the MDL Process,” invited discussant, American Association for Justice discussion meeting, Washington, D.C., May 2, 2018

“Documenting and Seeking Solutions to Mass-Tort MDL Problems,” invited participant, Duke Law Conference, Atlanta, GA, April 26-27, 2018

“Current Issues in Multijurisdiction Litigation,” invited panelist, Conference on “Contemporary Issues in Complex Litigation,” Northwestern Pritzker School of Law, Chicago, IL, November 29-30, 2017

“Ethical Conundrums,” invited panelist and moderator, 17th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 10, 2017

“Ethical Considerations in Settling Mass Torts,” invited panelist, 26th Annual Spring CLE Meeting, “Hot Topics in Toxic and Environmental Law,” ABA Toxic Torts & Environmental Law Committee, Tort Trial & Insurance Practice Section, Phoenix, AZ, April 7, 2017

“Ethical Finality in Mass Tort Settlements,” invited presentation, TTLA 4th Annual Pharmaceutical and Medical Device Seminar, Austin, TX, February 10, 2017

Law School Outreach Summit, Pound Civil Justice Institute, invited participant, San Francisco, CA, January 7, 2017

“Mass Torts and the Pursuit of Ethical Finality,” invited paper and presentation, Law & Economics Workshop, Tel Aviv University Law School, Tel Aviv, Israel, December 7, 2016

“Ethics, Ethics, and More Ethics,” invited panelist and moderator, 16th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 11, 2016

“Mass Torts and the Pursuit of Ethical Finality,” invited paper and presentation, Symposium on “Civil Litigation Ethics at a Time of Vanishing Trials,” Stein Center for Law and Ethics and the *Fordham Law Review*, NY, NY, October 21, 2016

“Mass Torts and the Pursuit of Ethical Finality,” invited presentation, panel on “Aggregate Litigation Ethics,” 7th International Legal Ethics Conference, NY, NY, July 16, 2016

“Ethical Finality in Mass Tort Litigation,” invited speaker, HarrisMartin's "MDL Conference: 'Bet-the-Company' Mass Tort Litigation," Chicago, IL, May 25, 2016

“Does Complex Litigation Complicate Ethics?,” invited panelist, 15th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 13, 2015

“Is the Price Right? An Empirical Study of Fee-Setting in Securities Class Actions,” invited presentation (with Michael A. Perino) to *Columbia Law Review* editors, New York, NY, November 9, 2015

“Aggregate Settlements and Attorney Liability: The Evolving Landscape,” invited presentation, Kentucky Justice Association Annual Convention and Seminar, French Lick, IN, September 10, 2015

“Riding the Aggregate Settlement Bronco,” invited panelist, 41st Annual National Conference on Professional Responsibility, ABA Center for Professional Responsibility, Denver, CO, May 28, 2015

“Aggregate Settlements and Attorney Liability: The Evolving Landscape,” invited presentation and paper, Conference on “Lawyers as Targets: Suing, Prosecuting and Defending Lawyers,” Maurice A. Deane School of Law at Hofstra University, Hempstead, NY, April 1, 2015

“Federalism: *Garcia*’s Ghost,” invited presentation, Symposium on “The Rehnquist Court: Ten Years Later,” University of Arizona James E. Rogers College of Law, Tucson, AZ, February 6, 2015

“Ethics, Aggregate Settlements, and Exit Strategies,” invited speaker, 14th Annual Class Action/Complex Litigation Symposium, Louisiana State Bar Association, New Orleans, LA, November 21, 2014

- “Recent Developments in Legal Ethics,” invited presentation, University of Texas Law School Annual Reunion, Austin, TX, April 12, 2014
- “Private Ordering Versus Judicial Regulation of Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver), Corporate & Securities Litigation Workshop, University of Illinois at Urbana-Champaign, Chicago, IL, November 8, 2013
- “The Public Life of the Private Law: The Logic and Experience of Mass Litigation,” invited commentator, “A Conference in Honor of Richard A. Nagareda,” Vanderbilt Law School, Nashville, TN, September 28, 2013
- “Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver)
- Faculty Colloquium, University of Texas Law School, Austin, TX, August 29, 2013
 - 19th Annual Symposium of the Institute for Law and Economic Policy, “The Economics of Aggregate Litigation,” Naples, FL, April 2013
- “Mass Torts as Quasi-Class Actions: The Role of Judicial Oversight,” invited panelist, ABA’s 2013 National Conference on Professional Responsibility, San Antonio, TX, May 2013
- “Alienability of Mass Tort Claims,” invited paper and presentation, the Clifford Symposium, “Brave New World: The Changing Face of Litigation and Law Firm Finance,” DePaul Law School, Chicago, IL, April 2013
- “Setting Attorneys’ Fees in Securities Class Actions: An Empirical Assessment,” invited paper and presentation (with Michael A. Perino & Charles Silver), 19th Annual Symposium of the Institute for Law and Economic Policy, “The Economics of Aggregate Litigation,” Naples, FL, April 2013
- “The Business of Law,” invited panelist, Mass Torts Made Perfect, Las Vegas, NV, April 2013
- “Limitations Attached to Federal Money,” invited panelist, Federalist Society National Student Symposium on “The Federal Leviathan,” Austin, TX, March 2013
- Invited presentation, “The Opportunities and Challenges of Metro Government: A Conversation at Vanderbilt Law School to Celebrate 50 Years of Consolidated Government in Nashville,” Nashville, TN, February 2013
- “Governance from the State Perspective,” panel moderator, conference on “Is America Governable?,” University of Texas School of Law, Austin, TX, January 2013
- “The NFIB Medicaid Decision: Interpretation and Implications,” invited panelist, a Hot Topic Program at the AALS Annual Meeting, New Orleans, LA, January 2013
- “Fee Caps,” invited paper and presentation (with Charles Silver), 5th International Legal Ethics Conference, Banff, Alberta, Canada, July 2012
- “The Quasi Class Action and Judicial Regulation of Attorneys’ Fees,” invited paper and presentation, Conference on “The Future of Class Actions and Its Alternatives,” Loyola University Chicago School of Law, Chicago, IL, April 2012

- “Ethical Issues Surrounding Fees and Settlements in Mass Torts,” invited presentation, Symposium on “Mass Torts in the Federal Courts,” Charleston School of Law, Charleston SC, February 2012
- “Federalism in the 21st Century: Balancing States’ Rights with Federal Power,” invited panelist, 2011 Ninth Circuit Judicial Conference, Carlsbad, CA, August 2011
- “Fiduciaries and Fees: Puzzles for Plaintiffs’ Attorneys,” invited speaker, Mass Torts Made Perfect, Las Vegas, NV, April 2011
- “The Politics of Legal Ethics: Case Study of a Rule Change,” invited paper and presentation “Ted Schneyer Ethics Symposium: Lawyer Regulation for the 21st Century,” James E. Rogers College of Law, University of Arizona, Tucson, AZ, January 2011
- “Fiduciaries and Fees: Preliminary Thoughts,” invited paper, symposium on “Civil Procedure and Legal Ethics,” Fordham Law Review, Fordham University School of Law, New York, NY, November 2010 (with Charles Silver)
- “Fee Caps” (paper co-authored with Charles Silver), invited paper and presentation
- Colloquium, University of Houston Law Center, Houston, TX, April 2010
 - Faculty Workshop, University of Kansas School of Law, Lawrence, KS, April 2010
- Invited speaker, Cecil D. Branstetter Litigation & Dispute Resolution Program, workshop on “The Regulation of Attorneys’ Fees in Aggregate Litigation,” Vanderbilt University Law School, Nashville, TN, February 2010
- “Constitutional Home Rule and Judicial Scrutiny,” invited speaker, panel on “The City as a Political Actor: Powers, Boundaries, Responsibilities,” Section on State and Local Government Law, AALS Annual Meeting, New Orleans, LA, January 2010
- “Judicially Imposed Fee Caps and Other Recent Developments: Ethical Issues in Mass Tort Litigation,” invited speaker, Mass Torts Made Perfect, Las Vegas, NV, October 2009
- “Breaking Developments in Pharmaceutical Litigation,” invited panelist on ethical issues, Texas State Bar, Austin, TX, April 2009
- “Constitutional Home Rule and Judicial Scrutiny,” Invited Paper and Presentation, Randall-Park Faculty Colloquium, University of Kentucky College of Law, Lexington, KY, April 2009
- “Liberty, Responsibility and the Legal Profession,” invited colloquium participant, Liberty Fund Colloquium, San Diego, CA, March 2009
- Invited Paper and Presentation, Conference on “Municipal Home Rule,” Byron R. White Center for the Study of American Constitutional Law, University of Colorado, Denver, CO, January 2009
- “Fee Caps,” Paper and Presentation, Drawing Board Lunch, University of Texas School of Law, Austin, TX, October 2008
- “Ethical and Liability Issues in Group Litigation: Vioxx and Beyond,” Invited Presentation, Mass Torts Made Perfect, Las Vegas, NV, April 2008

- “Constitutional Ambiguities and Originalism: Lessons from the Spending Power,” Invited Paper and Presentation, Conference on “Original Ideas on Originalism,” Northwestern University School of Law, Chicago, IL, April 2008
- “Ethical Considerations,” Invited Presentation, Mealey’s VIOXX Litigation Conference, New Orleans, LA, December 2007
- “Ethical Aspects of the Nationwide Vioxx Settlement,” Invited Presentation
- Los Angeles, CA, November 2007
 - Philadelphia, PA, November 2007
- “Aggregate Settlements: Critical Considerations for Both Plaintiff and Defense Counsel – Recent Developments and New Concerns,” Invited Speaker, Seventh Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New Orleans, LA, October 2007
- “Group Settlements in the New Era: Ethical and Liability Issues,” Invited Presentation
- “Hot Topics in Pharmaceutical Litigation,” Miami, FL, June 2007
 - Mass Torts Made Perfect, Las Vegas, NV, March 2007
- “Comparative Domestic Constitutional Law: Federalism and Localism as a Case Study,” Drawing Board Lunch Presentation, Univ. of Texas School of Law, Austin, TX, April 2007 (with Dan Rodriguez)
- “Solving the Problem of the Modern Spending Power,” Invited Paper and Presentation, Legal Theory Colloquium, University of California at Davis School of Law, Davis, CA, March 2007
- “Do the Ethics Rules Governing Group Litigation Disadvantage Plaintiffs?,” Invited Presentation, The Review of Litigation Symposium on “Products Liability: Litigation Trends on the 10th Anniversary of the Third Restatement,” Austin, TX, March 2007
- “Dole Dialogue,” Invited Speaker, Conference on *South Dakota v. Dole*, Univ. of South Dakota Law School, January 2007
- “Aggregate Settlements: Rules, Strategies, and Pitfalls,” Invited Panelist, Association of Professional Responsibility Lawyers Annual Meeting, Chicago, IL, August 2005
- “Federalism and the Spending Power from *Dole* to *Birmingham Board of Education*,” Invited Paper and Presentation, Conference on “The Rehnquist Legacy,” Indiana University Law School, Bloomington, IN, April 2005
- “When Can Mass Torts Have Mass Settlements?,” Invited Panelist, ABA Section of Dispute Resolution, 7th Annual Conference on “The Golden State of ADR,” Los Angeles, CA, April 2005
- “The Future of Federalism? *Pierce County v. Guillen* as a Case Study,” Invited Paper and Presentation, Panel on “From Warren to Rehnquist and Beyond: Federalism as Theory, Doctrine, Practice, and Instrument,” Section on Federal Courts, AALS Annual Meeting, San Francisco, CA, January 2005

- “*Lochner*’s Legacy for Modern Federalism: *Pierce County v. Guillen* as a Case Study,” Invited Paper and Presentation, Faculty Colloquium, UCLA Law School, Los Angeles, CA, November 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Fifth Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New Orleans, LA, October 2004
- “*Lochner*’s Legacy for Modern Federalism: *Pierce County v. Guillen* as a Case Study,” Invited Paper and Presentation, Conference on the “*Lochner* Centennial,” Boston University Law School, Boston, MA, October 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Houston Bar Association, CLE Seminar, Houston, TX, August 2004
- “Ethical Issues and Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Andrews Silica Litigation 2004 Conference, New Orleans, LA, May 2004
- “Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Clause?” (with Samuel H. Dinkin), Invited Paper and Presentation, Faculty Colloquium, Florida State Law School, Tallahassee, FL, April 2004
- “Ethical Issues in Group Settlements,” Invited Presentation, ABA Toxic Tort & Environmental Law Round Up: Preparing for Litigation Beyond the Asbestos Horizon, Phoenix, AZ, March 2004
- “A Primer on Federalism Law and Policy,” Invited Presentation, ABA Section of Environment, Energy & Resources, 33rd Annual Conference on Environmental Law, Keystone, CO, March 2004
- “Federalism, Redistribution, and Judicial Review: Lessons from the U.S. Experience,” conference on “Patterns of Federalism and Regionalism: Lessons for the U.K.,” University College London, London, England, November 2003
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Mealey’s/LexisNexis “Asbestos 101” Conference, Dallas, TX, June 2003
- “Preferences, Priorities, and Plebiscites,” Invited Paper and Presentation, Symposium on “Direct Democracy,” University of San Diego School of Law, San Diego, CA, June 2003
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, meeting of Capital Area Trial Lawyers Association, Austin, TX, March 2003
- “Constitutional Origins, Structure, and Change: A Global Dialogue on Federalism in the 21st Century,” Invited Speaker, conference sponsored by the Forum of Federations and the International Association of Centers for Federal Studies, held at Center for State Constitutional Studies, Rutgers University, Camden, NJ, November 2002
- “Sources of Potential Liability for Attorneys in Group Settlements,” Invited Speaker, Third Annual “Masters of Trial” Seminar, Houston Trial Lawyers Association, Houston, TX, November 2002

- “Professional Responsibility: Critical Mass Tort Settlement Considerations,” Invited Speaker, Third Annual Class Action/Mass Tort Symposium, Louisiana State Bar, New Orleans, LA, October 2002
- “Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Cause?” (with Samuel H. Dinkin), Invited Paper and Presentation:
- Law, Economics, and Politics Workshop jointly sponsored by the University of San Diego Law School and the University of California at San Diego Political Science Department, San Diego, CA, March 2002
 - Annual Meeting of the Public Choice Society, San Diego, CA, March 2002
- “Facts about Fees: Lessons for Legal Ethics,” Invited Paper and Presentation, Symposium on “What We Know and Don’t Know about the Impact of Legal Services on the American Economy and Polity,” University of Texas School of Law, Austin, TX, February 2002
- “Getting off the *Dole*: Why the Court Should Abandon Its Spending Doctrine, and How Congress Could Provoke It to Do So,” Invited Paper and Presentation (with Mitchell N. Berman), Symposium on “Congressional Power in the Shadow of the Rehnquist Court: Strategies for the Future,” Indiana Univ. School of Law, Bloomington, IN, February 2002
- Invited Speaker, Panel on “Separation of Powers in State Government,” Annual Meeting of the National Council of State Legislatures, San Antonio, TX, August 2001
- “Toward a Federalism for the Twenty-First Century: A Role for Non-Parametric Judicial Review under the Spending Clause?” (with Samuel H. Dinkin), Invited Paper and Presentation:
- Oxford University (St. John’s College), Oxford, England, June 2001
 - University of Chicago Law School, Chicago, IL, April 2001
- “Should Liberals Fear Federalism?,” Invited Paper and Presentation, Taft Lecture Symposium, University of Cincinnati College of Law, Cincinnati, OH, February 2001
- “The Spending Power and the Federalist Revival,” Invited Paper and Presentation, Symposium on “The Spending Power: Enumerated Power or Blank Check?,” Chapman University School of Law, Orange, CA, January 2001
- “Putting the Safeguards Back into the Political Safeguards of Federalism,” Invited Paper and Presentation, Symposium on “New Voices on the New Federalism,” Villanova University School of Law, Villanova, PA, October 2000
- “Federalism and the Double Standard of Judicial Review” (with E. Young), Invited Paper and Presentation, Symposium on “The Constitution in Exile -- Is It Time to Bring It in from the Cold?,” Duke University School of Law, Durham, NC, October 2000
- “States’ Rights and the Promise of Liberty: Toward a Federalism for the Twenty-First Century,” Invited Presentation, Reunion Weekend 2000, Univ. of Texas School of Law, Austin, TX, April 15, 2000

“Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review under the Spending Clause” (with Samuel H. Dinkin), Invited Paper and Presentation:

- University of Virginia School of Law, Charlottesville, Virginia, March 2000
- Cornell University Law School, Ithaca, NY, February 2000

Invited Commentator, Conference on “Deliberating About Deliberative Democracy,” University of Texas Government Department, Austin, TX, February 5, 2000

Invited Speaker, Panel on “Federalism,” Conference of Chief Justices of State Supreme Courts, University of Texas School of Law, Austin, TX, February 1, 2000

"Class Auctions" (with Samuel H. Dinkin & Charles Silver), Invited Presentation, Section on Insurance Law's Program on "Insurance Class Actions," Annual Meeting of the Association of American Law Schools, Washington, DC, January 7, 2000

“The Role of States’ Rights in Protecting the Rights of Minorities: Lessons from the U.S. Experience, Invited Paper and Presentation, Symposium on "Comparative Constitutional Law: Defining the Field," Georgetown Univ. Law Center, Wash., D.C., Sept. 17, 1999

"Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review" (with Samuel H. Dinkin), Invited Paper and Presentation, American Political Science Association, Annual Meeting, Atlanta, GA, Sept. 4, 1999

Ethics Panel Discussion, Invited Presentation, 9th Annual Conference on State and Federal Appeals, University of Texas School of Law (CLE Program), Austin, TX, June 1999

“Getting from Here to There: The Rebirth of Constitutional Constraints on the Special Interest State” (with Samuel H. Dinkin), Invited Paper, Symposium on “Supermajority Rules as a Constitutional Solution,” William and Mary Law Review, Spring 1999

“Toward a Federalism for the Twenty-First Century: The Case for Non-Parametric Judicial Review under the Spending Clause” (with Samuel H. Dinkin), Invited Paper and Presentation:

- Vanderbilt University Law School, Nashville, Tennessee, April 1999
- University of Iowa College of Law, Iowa City, Iowa, April 1999

“Ethical Issues for the Personal Injury Attorney” (with Charles Silver), Invited Presentation, 22nd Annual Page Keeton Products Liability & Personal Injury Law Conference, University of Texas School of Law (CLE Program), Austin, Texas, October 1998

“The Revival of States’ Rights: A Progress Report and a Proposal,” Invited Paper and Presentation, Symposium on “The Revival of the Structural Constitution,” Federalist Society’s Seventeenth National Symposium, NYU School of Law, New York, NY, March 1998

“I Cut, You Choose: The Role of Plaintiffs’ Counsel in Allocating Settlement Proceeds” (with Charles Silver), Invited Paper and Presentation, Symposium on “The Law and Economics of Lawyering,” Univ. of Virginia School of Law, Charlottesville, VA, February 1998

Invited Commentator, "What Cities and Suburbs Owe Each Other," Joint Program of Sections on State and Local Government Law and Minority Groups, Association of American Law Schools, Annual Meeting, San Francisco, CA, January 1998

"Mass Lawsuits and the Aggregate Settlement Rule" (with Charles Silver), Invited Paper, Symposium on "Legal Professionalism," Wake Forest Law Review, Fall 1997

"Federalism: The Argument from Article V," Invited Paper and Presentation, Henry J. Miller Distinguished Lecture Series/Symposium on "New Frontiers of Federalism," Georgia State University College of Law, Atlanta, GA, February 1997

"The Missing Pages of the Majority Opinion in *Romer v. Evans*," Invited Paper and Presentation, Ira Rothgerber Conference on "Gay Rights and the Courts: The Amendment Two Controversy," University of Colorado School of Law, Boulder, CO, October 1996

"They the People": A Comment on *U.S. Term Limits v. Thornton*, Invited Paper and Presentation, Conference on "Major Issues in Federalism," University of Arizona College of Law, Tucson, AZ, March 1996

"The Senate: An Institution Whose Time Has Gone?," Invited Paper and/or Presentation:

- Georgetown University Law Center, Washington, D.C., Law & Economics Workshop, February 1996
- University of Texas School of Law, Austin, TX, February 1996
- Rutgers University Law School, Camden, NJ, February 1996
- University of Minnesota Law School, Minneapolis, MN, January 1996
- University of Pennsylvania Law School, Philadelphia, PA, January 1996
- George Washington University National Law Center, Washington, DC, Dec. 1995
- University of San Diego Law School, San Diego, CA, November 1995

"Bargaining for Public Assistance," Invited Paper and Presentation, Conference on "The Unconstitutional Conditions Doctrine," University of Denver College of Law, Denver, CO, March 1995

"Constitutional Change and Direct Democracy," Invited Paper and Presentation, Conference on "Governing By Initiative," Univ. of Colorado Law School, Boulder, CO, Sept. 1994

Invited Presentation, Conference on Richard Epstein's **BARGAINING WITH THE STATE**, George Mason University Law School, Law and Economics Center, Arlington, VA, March 1994

Invited Participant, Conference on "Emanations from *Rust*: The Impact on the Nonprofit Sector of the Unconstitutional Conditions Doctrine," New York University School of Law, The Program on Philanthropy and the Law, NY, NY, October 1992

Invited Commentator, Task Force Report and Recommendations, American Bar Association Task Force on Initiatives and Referenda (Section on Torts and Insurance Practice), Annual Meeting, San Francisco, CA, August 1992

“Direct Democracy and Discrimination: A Public Choice Perspective,” Invited Paper and Presentation

- John M. Olin Foundation Conference on “The Law and Economics of Local Government,” University of Virginia School of Law, Charlottesville, VA, Nov. 1991
- New York Law School, NY, NY, October 1991 (presentation)
- University of Arizona College of Law, Tucson, AZ, October 1991 (presentation)
- University of Illinois College of Law, Champaign, IL, February 1992 (presentation)

“‘Just Do It’: Pragmatism and Progressive Social Change,” Invited Paper and Presentation, Conference on “Pragmatism in Law and Society,” University of Virginia, Charlottesville, VA, November 1990

“*Webster* and Incomplete Judicial Review,” Invited Paper and Presentation, Symposium on “Judicial Review in a Democratic Society: Lessons from the American and French Experiences,” University of Virginia School of Law, Charlottesville, VA, Nov. 1989

“‘I Think I Do’: Another Perspective on Consent and the Law,” Invited Paper, **LAW, MEDICINE AND HEALTH CARE** Festschrift for Jay Katz, Elizabeth K. Dollard Professor of Law, Medicine, and Psychiatry, Yale University, Fall 1988

Invited Panelist, Conference on “Free Speech and Advertising: Who Draws the Line?,” Institute for Democratic Communication, Boston University, Boston, MA, April 1987

COMMITTEE SERVICE

University of Texas School of Law (1997 - present)

Budget: 2022-23; 2020-21; 2017-18 (Chair); 2015-17; 2012-14; 2011-12 (Chair); 2005-06; 2000-01

Faculty Appointments: 2021-22; 2018-20; 2014-16; 2007-08 (Chair); 2005-06 (Chair of Entry-Level Subcommittee); 2004-05 (Chair), 2003-04 (Chair), 2002-03, 1999-2001, 1997-98

Texas Review of Law & Politics: 2019-22 (Faculty Advisor)

Ad Hoc Committee on Journals (2019-22)

Strategic Planning: 2013-14 (Co-Chair)

Governance: 2010-11 (Chair)

Tenure: 2006-07; 1997-98

Faculty Colloquia: 2006-07 (Coordinator); 1999-2001 (Co-coordinator, 2000-2001, Fall 1999; Coordinator, Spring 2000)

Endowed Lectures: 2006-07 (Coordinator); 1999-2001 (Co-coordinator, 2000-2001; Fall 1999; Coordinator, Spring 2000)

Scheduling: 2006-07 (Chair)

Computer Services: 2008-09

Dean’s Advisory Council: 2004-05

Long-Term Planning Committee (Working Group): 2001-02

Dean’s Ad hoc Budget Committee: 2002-03

Ad hoc Committee on Appointments Voting Rules (Chair): 2008

Ad hoc Committee on the Sunflower Ceremony: 1999-2000

University of Texas (1997 – present)**System-Wide Committees**

Chancellor's Blue Ribbon Panel on Professionalism and Citizenship (2012)
(appointed by Chancellor)

Committee to Frame UT Policies on Conflict of Commitment (2012)

University Committees

Faculty Grievance Panel Pool, Member (2018-20; 2008-10; 2006-08; 2003-05)
(appointed by University President)

University Faculty Gender Equity Council, Law School representative (2014-17)

University Gender Equity Council, member (2013-14)

Committee to Select Rhodes and Marshall Scholarship Candidates from the
University of Texas, Member (2010)

Selection of Dean of LBJ School of Public Affairs, Consultative Committee to
the Provost, Member (2009-10) (appointed by University Provost)

Chair, University Hearing Panel on Termination for Cause (2003) (appointed to
Panel by University President)

Association of American Law Schools

Section on Professional Responsibility: Executive Committee (2012-15)

Section on State and Local Government Law: Executive Committee (1994-2000);

Chair (1999-2000); Chair-Elect (1998-99); Secretary (1997-98)

Section on Constitutional Law: Executive Committee (2003-04)

University of Arizona College of Law (1992 - 1996)

Faculty Appointments: 1995-96, 1993-94

Dean Search: 1994-95 (appointed by University Provost)

Workshops/Speakers: 1995-96, 1994-95 (Chair), 1993-94

Admissions: 1992-95

Judicial Clerkships: 1992-93

University of Virginia School of Law (1986 - 1992)

Admissions: 1987-92

Judicial Clerkships: 1987-91

McCorkle Lecture: 1987-88

Faculty Secretary: 1986-87

SELECTED OTHER HONORS AND ACTIVITIES

Board of Directors, United States Bridge Federation (2020 – present)

- Vice President (2022-present)
- Member of the Board (2020-2021)

World Bridge Championships

- Two-time World Champion (2018; 2014) – one-time Silver Medalist (2009) – one-time Bronze Medalist (2022)

2022 – Wroclaw, Poland

- McConnell Cup (3rd place)
- Women's Pairs (5th place)

- 2022 – Salsomaggiore, Italy – Venice Cup (5th place (tie)) (one of 12 women selected to represent the USA)
- 2019 – Wuhan, China
 - Venice Cup (5th place (tie)) (one of 12 women selected to represent the USA)
 - Wuhan Grand Prix II (1st place)
- 2018 – Orlando, Florida – McConnell Cup (1st place)
- 2014 – Sanya, China
 - McConnell Cup (1st place)
 - Women's Pairs (18th place)
- 2010 – Philadelphia, PA
 - McConnell Cup (5th place (tie))
 - Women's Pairs (8th place)
- 2009 – Sao Paulo, Brazil – Venice Cup (2nd place) (one of 12 women selected to represent the USA)
- 2006 – Verona, Italy
 - McConnell Cup (9th place (tie))
 - Women's Pairs (13th place)
- 2002 – Montreal, Canada
 - McConnell Cup (5th place (tie))
 - Women's Pairs (17th place)
- 2001 – Paris, France – Venice Cup (5th place (tie)) (one of 12 women selected to represent the USA)

North American Bridge Championships

- 16-time North American Champion
 - First place -- Life Master Women's Pairs – Fall 2007, 2003
 Women's Swiss Teams – Spring 2015, 2007, 2001, 1998
 Women's Board-a-Match Teams – Fall 2008, 2006, 2005, 1999
 Women's Knock Out Teams – Summer 2015, 2010, 2008, 2005, 2003
 Mixed Board-a-Match Teams -- Summer 1999
 - Second place – Women's Knock Out Teams – Summer 2014
 Women's Swiss Teams – Spring 2008, 1999
 Women's Board-a-Match Teams – Fall 2002
 - Third place -- Women's Knock Out Teams – Summer 2013, 2004, 2002, 2001, 1997
 (all 3rd place tie)
 Women's Swiss Teams – Fall 2013
 Life Master Women's Pairs – Fall 2013

European Open Bridge Championships

- European Champion (2015) -- Silver Medalist (2017)
 - 2017 – Montecatini, Italy – Women's Teams (2nd place)
 - 2015 – Tromsø, Norway – Women's Teams (1st place)

U.S. Women's Bridge Championships (USBF Women's Team Trials)

- First place – Summer 2019, 2009, 2001
- Second place – Fall 2021, Summer 2016, 2008
- Third place -- Summer 2003, 2000 (tie)

Other

- Yeh Bros Cup Shanghai Bridge Master Championship (2019) (member of only all-female team invited to participate) (10th place tie of 28 teams)
- Beijing Hua Yuan Cup World Women Elite Bridge Tournament (2013) (one of six women selected to represent the USA) Hua Yuan Cup Teams (7th place); Capital Cup Pairs (15th)
- Beijing Hua Yuan Cup World Women Elite Bridge Tournament (2011) (one of six women selected to represent the USA) Hua Yuan Cup Teams (6th place); Yang Guang Sheng Da Cup Pairs (6th place)
- WBP Pairs -- Third place – 2003

Women's World Grand Master, World Bridge Federation
Emerald Life Master, American Contract Bridge League

Selected to U.S. Olympic Rowing Team Camp (1976)
Selected to National Rowing Team Camp (1978, 1977, 1975)
Yale Varsity Women's Crew (1974-78)

PERSONAL

Married to Samuel H. Dinkin, Ph.D.
One child, Mahria Alexandra Baker (born 1998)

Addendum to Curriculum Vita of Lynn A. Baker

Since January 1, 2018, I have testified as an expert at trial or by deposition in the following case:

- *Confidential matter* – before the International Institute for Conflict Prevention & Resolution – deposition (Oct. 11, 2019)